

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

G. CONDE,

Plaintiff,

vs.

DEPARTMENT OF CORRECTIONS, et al.,

Defendants.

No. C 07-2435 JSW (PR)

ORDER OF TRANSFER

(Docket No. 2)

Plaintiff is a state prisoner currently incarcerated at High Desert State Prison in Susanville, California. He filed this civil rights action challenging the dental care he is receiving while incarcerated there. Susanville, California is located in Lassen County, within the venue of the United States District Court for the Eastern District of California.

When jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Where a case is filed in the wrong venue, the district court has the discretion either to dismiss the case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. § 1406(a). Venue may be raised by the court sua sponte where the defendant has not yet filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986).

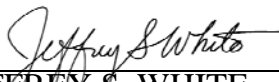
Plaintiff complains about conditions of confinement at a prison located in Lassen

1 County, within the venue of the Eastern District of California. *See* 28 U.S.C. § 84.

2 Therefore, the Court will transfer this action to the United States District Court for the
3 Eastern District of California. Accordingly, IT IS ORDERED in the interest of justice,
4 and pursuant to 28 U.S.C. § 1406(a), that this action be TRANSFERRED to the United
5 States District Court for the Eastern District of California. The Clerk of the Court shall
6 transfer this matter forthwith. In light of the transfer, the Court will not resolve
7 Plaintiff's pending motion (docket no. 2).

8 IT IS SO ORDERED.

9 DATED: May 10, 2007

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11 JEFFREY S. WHITE
12 United States District Judge
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